

WaiversFirst Name Last Name Claim Number  
[REDACTED] [REDACTED] W-19-0012  
Amount OGC Received Date Assigned To Assigned Date  
\$934.78 07/10/2019 Kenneth Redden 07/17/2019  
EPA Decision EPA Decision Date Amount Approved Status  
APPROVED 12/16/2019 \$934.78 CLOSED  
Appeal Comments  
No  
Type  
Federal Employee Retirement System (FERS)

Attachments

From: [REDACTED] >  
Sent: Monday, December 16, 2019 12:57 PM  
To: Redden, Kenneth <Redden.Kenneth@epa.gov>  
Cc: Sisson, Ann <Sisson.Ann@epa.gov>; Stewart, Leonice  
<Stewart.Leonice@epa.gov>; Church, Stacey <Church.Stacey@epa.gov>;  
Lavergne, Dany <lavergne.dany@epa.gov>; Tammy Johnson  
<tammy\_johnson@ibc.doi.gov>  
Subject: RE: Waiver of Indebtedness Application (W-18-0012)

Thank you for your email and for granting the debt waiver.

Best regards,

[REDACTED]

From: Redden, Kenneth <Redden.Kenneth@epa.gov>  
Sent: Monday, December 16, 2019 11:36 AM  
To: [REDACTED]  
Cc: Sisson, Ann <Sisson.Ann@epa.gov>; Stewart, Leonice  
<Stewart.Leonice@epa.gov>; Church, Stacey <Church.Stacey@epa.gov>;  
Lavergne, Dany <lavergne.dany@epa.gov>; Tammy Johnson  
<tammy\_johnson@ibc.doi.gov>  
Subject: Waiver of Indebtedness Application (W-18-0012)

[REDACTED]:

This email is in response to your "Waiver/Remission of Indebtedness Application" dated June 12, 2019 (W-18-0012), wherein you have requested

approval of a waiver of Debt ID #91270264586 in the amount of \$934.78. For the reasons set forth below, your request for a waiver is granted.

#### Background

The information you submitted with your waiver request shows that the debt was created by salary overpayments in Pay Periods 16-19 of 2017 and Pay Periods 16-19 of 2018.

The record shows that a realignment in [REDACTED] required the Cincinnati Shared Services Center to move you from your temporary promotion position at the GS-14 level back to your position of record at the GS-13 level.

This move back to your position of record at the GS-13 level mistakenly caused your Within-Grade Increases (WGIs) to be calculated using the dates which corresponded to your position of record. Instead, your WGIs should have been calculated based on your temporary promotion position. This error by the Cincinnati Shared Services Center resulted in you receiving two WGIs, each occurring four pay periods earlier than they should have. Accordingly, the Interior Business Center (IBC) sent you a Bill of Collection dated May 6, 2019 in the amount of \$934.78.

In response to the Bill of Collection, you timely submitted a "Waiver/Remission of Indebtedness Application". You stated that the EPA provided no notice to you of any overpayment issues prior to having IBC issue its Bill of Collection.

#### Analysis

Under 5 U.S.C. § 5584, I have the authority to waive collection of erroneous payments of pay or allowances if collection would be against equity and good conscience and not in the best interest of the United States, provided there is no indication of fraud, fault, misrepresentation, or lack of good faith on the part of the employee.

Waiver is precluded if the employee is aware or should have been aware that he or she was being overpaid. B-271308 (April 18, 1996). In the present case, I find that the erroneous payments were caused by Agency administrative error. Therefore, the only issue before me is whether you knew or should have known that you were receiving more pay than you were entitled to receive.

When an employee has been assigned to the wrong step within a grade upon a promotion, demotion, or the assumption of a new position, the Comptroller General has usually waived any resulting overpayments. B-211166 (August 25, 1983). The reason for this is that most employees cannot reasonably be expected to know the details of the pay regulations governing personnel actions. Furthermore, these personnel actions are generally not accompanied by any pay records, pay regulations, and/or guidance which would, on their face, evidence assignment to the wrong step within a grade. B-198760 (April 27, 1981). Employees cannot be found at fault if they are not furnished with records indicating an error, and since they cannot be reasonably expected to know and understand the complexities of Federal personnel regulations governing the establishment of pay rates and

step advancement. B-211345 (July 21, 1983).

Under the circumstances of this case, I find that a waiver is warranted because you could not reasonably have been expected to know or suspect you were being overpaid. A reasonable person would not be expected to know that their WGI should be tied to their temporary promotion as opposed to their position of record. In addition, even if a person did know that their WGI should be tied to their temporary promotion, it is reasonable for a person to not notice that the WGI occurred 4 pay periods too early. Accordingly, all the criteria for waiver of this claim have been met, and this request for waiver is approved in the amount of \$934.78. By copy of this email, I am advising that the Office of the Chief Financial Officer (OCFO) should work with the IBC to waive repayment and to refund to you any money that was already paid by you toward this debt.